regulation, and accordingly denying to the persons included the equal protection of the laws. A statute providing for the sterilization of rapists has been held not to impose a cruel or unusual punishment. *State* v. *Feilen,* 70 Wash. 65, 126 Pac. 75, 41 L. R. A. (N. S.) 418. Here, however, the sole question decided was the legality of sterilization as a mode of punishment. Sterilization laws are more properly placed under the police power. The principal object of such laws is not to punish, but to promote the health, welfare and good order of the state by preventing procreation by certain classes of its citizens on the theory that heredity plays an important part in the transmission of feeble-mindedness, criminal tendencies and other defects. It would seem, though, that the principle of heredity is still open to question and that all the phases of the subject are by no means fully known. See 4 JOURNAL OF CRIMINAL LAW AND CRIMINOLOGY 326. Has the state then the power to enact such legislation? Vasectomy, the operation for the sterilization of men is a simple operation, hardly more serious than vaccination. Salpingectomy, the corresponding operation for women, is a serious operation requiring anæsthetics and endangering the life of the patient. Has the state the power to risk the life of a citizen for the sake of a theoretical future benefit? Either of these operations is such an interference with the liberty of the individual as to call for careful consideration. Compulsory vaccination laws are upheld. *Jacobson* v. *Massachusetts,* 197 U. S. 11. The effects of vaccination, though, are well known; the operation is not dangerous, nor does it result in any change of the constitution of the subject. Reasonable restrictions on the right to marry, based on the future benefit to the health and well being of the community are upheld. Thus in the case of a statute prohibiting marriage with an epileptic. *Gould* v. *Gould,* 78 Conn. 242, 61 Atl. 604. It is suggested that such laws open a dangerous field of legislation, though the good might outweigh the evil were they confined within certain limits. Thus it would seem that the theory of heredity is well proven in cases of insanity. But such laws do not stop here. They generally include criminals also, and the heritability of criminal tendencies is by no means an undisputed proposition. It might be possible to extend this policy so as to embrace persons whose heritable qualities are undesirable or unpopular. Such statutes, though, are widely enacted. The following states have passed such laws though they have been before the courts only in New Jersey and Washington. Ind., Laws, 1907, c. 215; Conn., Pub. Acts, 1909, c. 209; Cal., Stat., 1909, c. 720; Ia., Laws, 1911, c. 129; N. J. Laws, 1911, c. 190; N. Y. Laws, 1911, c. 445.

SPECIFIC PERFORMANCE—RIGHT TO PARTIAL PERFORMANCE.—The defendant, a married man, agreed to convey land to the plaintiff free from all encumbrances. Defendant's wife refused to join in the conveyance. Plaintiff sued for specific performance. *Held,* specific performance will be granted against the husband with an abatement in the purchase price for the value of the wife's inchoate dower right. *Bethell* v. *McKinney* (N. C.), 80 S. E. 162.

The general rule is that where the vendor is unable to make com-

plete title, the court, on a bill by the vendee, will compel the vendor to convey such title as he has, allowing a deduction from the purchase money as compensation for the defect, if the vendee be willing to accept title on these terms. *Knatchbull* v. *Grueber,* 1 Madd. 167; *White* v. *Weaver,* 68 N. J. Eq. 644, 61 Atl. 25. Failing to recognize any distinction in the cases involving the wife's inchoate dower right, some courts will grant specific performance with compensation where the interest that can not be conveyed is the wife's inchoate dower right. *Wright* v. *Young,* 6 Wis. 127, 70 Am. Dec. 453; *Park* v. *Johnson,* 4 Allen (Mass.) 259; *Martin* v. *Merritt,* 57 Ind. 34, 26 Am. Rep. 45; *Walker* v. *Kelly,* 91 Mich. 212, 51 N. W. 934.

But many courts recognize an exception in cases where the interest that cannot be conveyed is an inchoate dower right. Upon the wife's refusal to unite in the conveyance, equity will not force the husband to convey, unless the purchaser is willing to pay the full purchase price. *Burke's Appeal,* 75 Pa. St. 141, 15 Am. Rep. 587; *Straybill* v. *Burgh,* 89 Va. 895, 17 S. E. 558, 37 Am. St. Rep. 894, 21 L. R. A. 133; *Bonnett* v. *Babbage,* 19 N. Y. Supp. 934. The reason being that to grant specific performance with compensation for the wife's inchoate dower would induce her husband to bring pressure to bear upon the wife to force her to join in the conveyance, and equity is unwilling to coerce the wife by acting upon the husband. This doctrine seems sound.

STATUTE OF FRAUDS—CONTRACTS OF INDEMNITY.—One of several joint accommodation endorsers of a promissory note orally agreed with the others that he would indemnify them against all liability on the note. *Held,* the agreement is enforceable. *Alphin* v. *Lowman* (Va.), 79 S. E. 1029.

There has been much conflict on this point both in England and this country. In an early English case where there were several obligors and one signed as surety on the parol promise of another to save him harmless the agreement was held not to be within the statute of frauds. *Thomas* v. *Cook,* 8 Barn. & C. 728. This decision was disapproved in *Green* v. *Creswell,* 10 Ad. & E. 453. The modern English doctrine is that a parol promise to indemnify is not within the statute. *Wildes* v. *Dudlow,* L. R. 19 Eq. Cas. 198. In this country an early case held that a parol contract of indemnity was enforceable. *Barry* v. *Ransom,* 12 N. Y. 462. In Virginia, prior to the decision in the principal case, such agreements were held to be within the statute. Unquestionably the better doctrine is that a parol promise to indemnify is not within the statute. And so is the weight of modern authority. *Tighe* v. *Morrison,* 116 N. Y. 263, 22 N. E. 164; *Handsaker* v. *Pedersen,* 71 Wash. 218, 128 Pac. 230; *Noyes* v. *Ostrom,* 113 Minn. 111, 129 N. W. 142; *McCormick* v. *Boylan,* 83 Conn. 686, 78 Atl. 335.